

chapter 3 Indigenous community stores in the 'frontier economy'

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This chapter is divided into four parts. The first establishes a conceptual framework, termed the 'frontier economy', through which TPA issues relevant to Aboriginal consumers and businesses can be explored. The second part of the chapter explores some of the 'special characteristics' of Aboriginal consumers that potentially increase their vulnerability to commercial exploitation. Moving from consumers to Aboriginal communities, part three examines factors that may inhibit the operation of competitive markets in remote Aboriginal communities, with reference to the operation of community stores. Finally, part four of the chapter returns to the concept of the 'frontier economy' and to the question of Aboriginal agency, and discusses the implications of these for ACCC compliance and education strategies.

The focus on community stores

A community store is defined here as a store run under Aboriginal control and located in a remote Aboriginal community. A large proportion of stores in remote Aboriginal communities fit this definition, in that they are owned and governed by Aboriginal bodies. Community stores are central institutions in remote Aboriginal communities, for a number of reasons. The store is often the main socioeconomic enterprise in the community (Roberts 1994: 5), and the main provider of food for many people (both Aboriginal and non-Aboriginal) in the community. Moreover community stores are often the only providers of banking services (see Altman, McDonnell & Ward 2001: 11–12). Community stores thus provide an excellent case study for examining the ways Aboriginal businesses operate in an Aboriginal domain and how this may differ from commercially operated businesses in the non-Aboriginal economy. Where appropriate, the operation of community stores will be contrasted with the operation of other types of stores located in or around remote Aboriginal communities, for example, pastoral station stores.

The operation of competitive markets in remote Aboriginal communities is circumscribed by structural impediments, in particular transport costs, problems of

governance, the cultural context, labour costs associated with remoteness, and land rights legislation (see Altman, McDonnell & Ward 2001). All of these factors impinge upon the operation of community stores as economic enterprises, and on competitive markets in remote Aboriginal communities more generally.

Competition theory postulates that where one or more firms exercise substantial market power by raising prices, other firms will be encouraged to enter the market. However, there are a number of cultural and structural factors which militate against the operation of mature competitive markets in discrete Aboriginal communities on Aboriginal lands in the Northern Territory. Effective competition has delivered benefits to most Australians, and the premise might be that it would have the same effect in remote Aboriginal communities. This chapter explores the complex reasons why such a premise is not self-evidently true.

Methodology

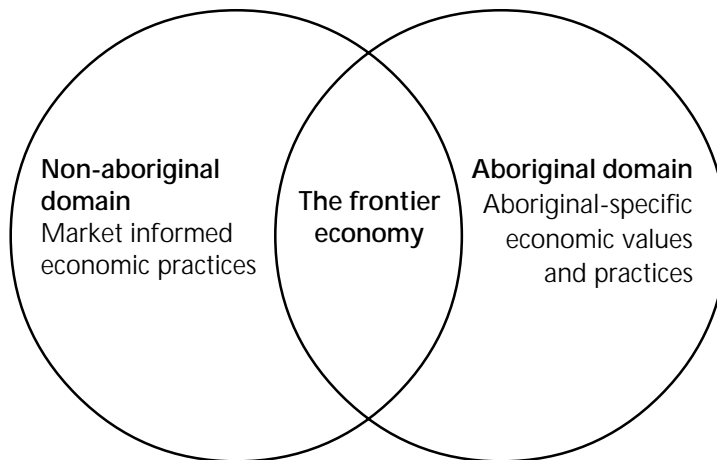
The remote Aboriginal communities visited during fieldwork included Yuendumu, Yuelamu, Mutitjulu and Ntaria (Hermannsburg). Two pastoral station stores were also visited. Interviews were conducted with the managers of community stores and pastoral stations, members of store committees, presidents and clerks of local councils, local business people, representatives from various community organisations, and Aboriginal and non-Aboriginal members of communities. Interviews were also conducted in Alice Springs with ATSIC Commissioner Alison Anderson and a number of other ATSIC staff, George James (Alice Springs, Department of Fair Trading) and Kevin Rolfe (Tangentyere financial counselling officer) as well as employees from a range of accounting firms who provide services to community stores. Additional brief fieldwork was conducted by Jon Altman and David Martin in Maningrida (Arnhem Land) and Aurukun (Cape York) respectively.

The methodology adopted is designed to provide the ACCC with an in-depth analysis of a particular type of enterprise—the community store. Such research, while limited in scope, elucidates some important conceptual and regulatory implications for the ACCC. For example, one finding of this research has been the diversity of experience and circumstance of Aboriginal consumers and businesses.

A conceptual framework: the 'frontier economy'

By definition, a frontier marks a boundary or an intersection between two domains. The 'frontier economy' describes the intersection between specific Aboriginal economic values and practices, and those of the general market-based economy (fig. 1). The conceptual space so created is the arena (spatial, social, political and economic) within which the specific economic practices and values of Aboriginal businesses (such as community stores) and Aboriginal consumers interact with those of the wider market-based economy.

Fig. 1. The frontier economy



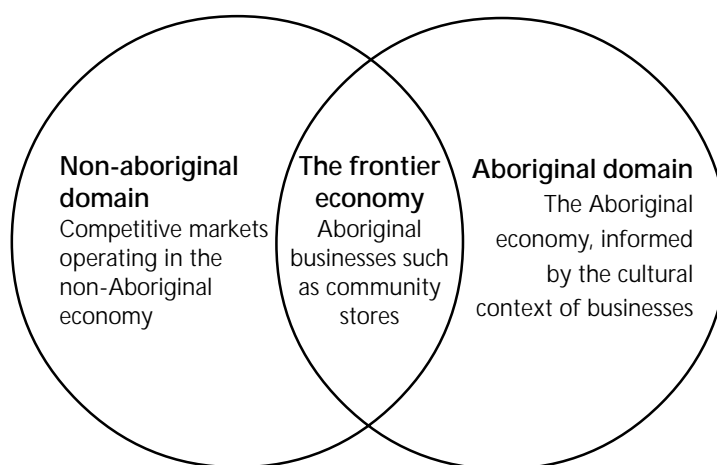
Aboriginal people, in their choices and actions as consumers, bring to bear values and practices that derive their forms and meanings from the Aboriginal domain. The chapter argues that some of the values that inform the choices and actions of Aboriginal consumers are different from those of non-Aboriginal people. A number of specific Aboriginal economic practices are identified and discussed: the contextualisation of money, the establishment of particular forms of dependency, demand sharing and personalised transactions.

An analysis of Aboriginal consumer welfare issues requires an understanding of Aboriginal consumer practices. Any assumption that the behaviour of Aboriginal consumers is the same as that of all other consumers may result in a misunderstanding of the commercial relationships entered into by Aboriginal consumers. In a worse case scenario it could result in an application of the TPA in a way that disadvantages, rather than benefits, Aboriginal consumers. To ensure that the TPA is applied in ways that benefit Aboriginal people, analysis of prospective breaches of the TPA must be made with reference to the agency of Aboriginal

consumers. Factors that may impinge on the agency must also be taken into account. The experience of Aboriginal consumers, and consumers generally, will differ depending on whether they live in a rural, regional or remote area, on their level of education and income, and on whether they are employed or not and so on.

The frontier economy also provides a useful conceptual framework for examining community stores, which operate in the zone of intersection between the Aboriginal and non-Aboriginal domains (see fig. 2). It is argued that the operations of community stores in remote Aboriginal communities must be interpreted with reference to their cultural context. In this section of the chapter, the exploration of the cultural context of Aboriginal businesses includes a discussion of the governance structure of stores. Such discussion is necessary for an understanding of why the frontier economy may operate in a way that is different to the non-Aboriginal economy. Martin (1995) posed the question as to whether enterprises such as stores are primarily concerned with 'culture business' or 'money business'. That is, whether the cultural priorities of an Aboriginal community, such as ensuring that revenue is distributed to traditional land owners on which the store is located, are more important than making a profit.

Fig. 2. The frontier economy and Aboriginal businesses



It is important to note at this juncture that the 'frontier economy' is used both as an analytical and as a heuristic device in this chapter to illustrate certain characteristics of the engagement of Aboriginal people and businesses with the wider Australian economy. It is not, however, designed to represent the wider relationships between Aboriginal groups and societies and the general Australian society, since this can be more accurately conceived of in terms of a complex, contested 'intercultural zone' rather than the interaction between two distinct societies (Merlan 1998).

The term 'frontier' is used advisedly, because it has connotations both of regions beyond the settled area, and of underdeveloped areas. The concept of the frontier economy as used in this chapter is not necessarily geographically located solely in remote areas, since distinct Aboriginal economic practices can be found in rural and urban environments as well as in remote regions (see Macdonald 2000). It may be that in identifying Aboriginal TPA-related issues, the particular understandings and values that Aboriginal people bring to bear in their engagement with the wider economy are more significant than their geographical location.

While geographic 'remoteness' is not a defining characteristic of the frontier economy, it may nevertheless be a contributing factor to the specific characteristics of that economy in remote Australia. For example, Aboriginal consumers may be more vulnerable to exploitation in remote as opposed to rural and urban areas, partly because of their lower levels of literacy and numeracy. Additionally, however, government institutions typically have a less effective presence in remote regions, as manifested for example in relatively ineffective law enforcement in remote Aboriginal communities. In the recent Cape York Justice Study, the Uniting Aboriginal and Islander Christian Congress (UAICC) made a submission arguing that in Cape York:

[t]here is a real issue about whether current policing practices and resources are adequate. Overwhelmingly, community leaders have stated that the law is very 'weak' in that community. By this they mean that ... law enforcement is weak (Cape York Justice Study 2001: 180).

It is questionable whether regulation alone will guarantee consumer rights in remote communities. In places where many government institutions are absent and where law enforcement is relatively weak, effective monitoring of regulatory compliance is necessarily compromised.

The argument in terms of the frontier economy is designed to alert readers to the importance of the cross-cultural dimensions of the market's operation in remote Aboriginal communities. Analysis of TPA-related Aboriginal issues requires a culturally-informed understanding of why Aboriginal people may continue to participate in relationships that have the potential to be exploitative. A culturally informed understanding of how Aboriginal businesses operate may suggest that they are as concerned with cultural reproduction as financial viability. However, the fact that businesses operate in the Aboriginal domain and are informed by specific Aboriginal economic practices does not necessarily mean that they do not operate in a competitive and efficient manner. In some instances it may be that the cultural context of a business is an important asset as, for example, in Aboriginal art production or tourism.

Aboriginal consumers and the market

One specific aim of this research is to identify special characteristics of Aboriginal communities that make individuals susceptible to commercial exploitation, and that should be taken into account in any ACCC compliance or education strategies. This section draws on findings from ethnographic studies of remote Aboriginal groups to outline certain values and practices which Aboriginal people in such areas typically bring to bear on their transactions in the market. A case study of the operations of a remote pastoral station store is used to argue that certain transactions may be **both** commercially exploitative **and** instances of instrumental Aboriginal action, or agency. The implications of this argument for the ACCC's compliance and education strategies are discussed in the final part of this chapter.

The 'informed consumer'

The underlying principles of the TPA are predicated upon the assumption that a competitive market will benefit consumers in most instances.¹ This is reflected in the Act's stated objective of enhancing the welfare of Australians through promoting competition and fair trading and providing consumer protection.

Markets involve producers of goods and services, consumers of those goods and services, and intermediaries such as wholesalers and retailers. Bruce suggests, in a summary of the operations of the consumer protection aspects of the TPA, that there is a tension between producers of goods and services and consumers. He argues that:

[t]he tension exists because the producers generally want to make the goods or services at the cheapest cost to themselves and make the best possible price return on those products. Consumers on the other hand generally want to choose between as many goods or services as they can and to buy them at the cheapest possible price to themselves.

The indication of this tension is price. Consumers use their buying power to send signals to producers telling them what goods or services they think are worth spending money on. In response to these price signals, producers then alter their production process to put out the kinds of goods and services that consumers are willing to pay for (1999: 4).

Thus a properly functioning market requires not only competition between producers and between suppliers, but also consumers for whom information about price is one of the bases upon which purchasing behaviour is predicated. Ultimately, then, certain assumptions are being made about human nature, or at least about those aspects of it that pertain to the provision and obtaining of market-derived goods.

¹ There is provision in the TPA for the authorisation of anti-competitive conduct (s. 88), where such conduct would be of benefit to society. Thus the test under this section is

This part of the chapter does not argue that price is irrelevant to the purchasing decisions of Aboriginal people in remote regions. However, it does suggest that it is not enough to understand their typically vulnerable economic position solely in terms of structural features of the market in remote regions, or poor literacy and numeracy skills, or a lack of knowledge of their consumer rights—although these factors are demonstrably present. Rather, it argues that Aboriginal people also bring to their dealings with the market particular distinctive values and practices. That is, the reality of Aboriginal agency has to be accepted in any analysis of competition and consumer issues.

Put another way, it is argued here that Aboriginal people are ‘informed consumers’, but typically much of the knowledge and many of the values which inform their purchases of goods and services may be quite different from those of non-Aboriginal consumers. While the focus here is on remote areas, there is also a body of ethnographic evidence that suggests that distinctive Aboriginal values and practices are not solely confined to traditionally oriented populations in remote areas.

Cash and consumer goods

In a market economy such as Australia’s, money integrates otherwise disparate processes in a multitude of domains. It not only mediates, but serves to **represent** relations between objects, and to **objectify** relations between persons. However, within the Aboriginal domain in remote Australia at least, money’s capacity to objectify relations in this manner is greatly attenuated, through what Sansom (1988) in writing of Darwin Aboriginal fringe dwellers, aptly terms a resistance to the ‘monetisation of the mind’.

For such Aboriginal people, whether or not cash is exchanged for access to others’ consumer goods, services or labour, and the amounts of cash involved in the transactions, are dependent upon people’s own assessments of the social value and context of the proposed transaction, rather than its formal economic value. As one instance, a number of attempts have been made in past years by Wik individuals and families in Aurukun in western Cape York to start small enterprises, for example through selling candy, soft drinks and cigarettes. In all cases these failed. The common factor was that the cash generated from sales was insufficient to meet the costs of the goods to the enterprise. The overwhelming reason for this was that it was not possible for those operating the enterprises to insist that goods provided or booked down to kin be paid for.

As another example from the same region, whether money is offered, and how much, for the use of another person’s vehicle or a boat for a hunting trip can depend on a range of non-market factors (Martin 1993: 116–29). These include the relationship between the parties (with the expectation and amount of payment tending to increase with the social and kinship distance of the relationship), the relative status of the two parties (particularly as established through kinship),

whether the vehicle or boat owner has social or other debts owing to the other party, and the amount of cash currently held by the person seeking the transport. These exchanges of cash between individuals and groups, and the use of consumer goods such as vehicles and boats, serve in part to establish and reproduce the system of Aboriginal social relations, especially those relationships defined through kinship. This social phenomenon is widely reported in the literature for Australian Aboriginal groups (e.g. Macdonald 2000; Martin 1995; Peterson 1991; Sansom 1980).

In such systems, money is no longer the object of formal calculation governed by the impersonal principles of the market place. On the contrary, it is transformed within the Aboriginal domain, becoming more the subject of contingent social calculation—what Schwab (1995) has aptly termed a ‘social calculus’—and a means through which a distinctive order is stamped upon the world. This ‘cultural logic’ not only operates within the Aboriginal domain, but is brought to bear by Aboriginal people in their dealings with outsiders.

Similar principles operate with regard to consumer goods. For example, Gerrard (1989) provides an analysis of the role of motor vehicles in an Arnhem Land community in the flows of goods and services among kin, and between Aboriginal people and outsiders, through a process of ‘humbugging’ or demand sharing (see below). The assimilation of vehicles to distinctive Aboriginal modes of economy and sociality amongst Warlpiri people of the central desert region has been clearly, and wittily, shown in the *Bush Mechanics* documentary series, screened by the Australian Broadcasting Commission (ABC 2000). These films show that vehicles are without doubt of high social utility, and are purchased from dealers in Alice Springs through market transactions. However, the value Warlpiri men accord them is not constructed against that established by the regional used-car market, but in terms of their roles in primarily Aboriginal masculine pursuits such as hunting, attendance at ceremonies, and visiting kin across a huge region. Furthermore, ‘ownership’ and use of a vehicle is not confined to a single individual or family, even if they were the original purchasers. Rather, vehicles provide focal points around which important aspects of Warlpiri sociality are organised. That is, for Warlpiri people, the value of vehicles is primarily socially determined within the regional Aboriginal society, rather than commercially determined within the regional or national market.

Conversely, there is ethnographic evidence that where possession of consumer goods, even highly valued ones, adversely affects core Aboriginal values, steps may be taken to ensure the primacy of the latter. Martin (1993) notes instances among the Wik people of western Cape York Peninsula where vehicles and other consumer goods are deliberately damaged or destroyed as part of an omnipresent pressure against material and capital accumulation and its potential to establish hierarchies. Similarly, Folds (2001) records instances of video recorders and other such consumer goods being destroyed by their owners to prevent disputation over their use amongst Pintupi people of the Western Desert.

Despite the availability of cash and consumer goods on a hitherto unprecedented scale, the evidence demonstrates that wealth for the Aboriginal people of such regions continues to lie primarily in social forms of capital. This is especially the case with social connections defined through kin and section relationships, and cultural forms of capital, such as connections to traditional country, and ritual status and knowledge. Ultimately that which is accumulated, managed and contested in the Aboriginal domain is not so much material forms of capital as social capital (Martin 1995). Cash and consumer goods have become incorporated into the Aboriginal domain as core means through which particular forms of social capital can be realised. The values and practices that inform that domain are brought to bear in Aboriginal people's transactions in the market. The chapter now briefly turns to explore this issue.

Seeking dependency

Particular concerns may arise in situations where there is a high degree of inequality between the transactors in a market. This will often be the case for Aboriginal consumers from remote communities, who may have a poor command of English, be largely illiterate and innumerate, and live in relatively impoverished circumstances. In these cases, the Aboriginal consumer may be dependent upon the knowledge, skills, honesty and goodwill of the provider of the particular good or service. These relationships may be long-term, for example between the owners and customers of the pastoral station store discussed below. However, it can not be assumed that such dependency flows solely from the relative inequality in market-relevant skills, knowledge and competence between Aboriginal people and the providers of goods and services. On the contrary, and paradoxically, dependency may itself arise in part at least through Aboriginal agency.

There is a significant body of research which suggests that 'dependency', in terms of a culturally established and validated capacity to demand and receive resources and services from others, is a core principle through which Aboriginal agency is realised in the structuring of social and economic relationships. This principle operates both within contemporary Aboriginal groups and in the intercultural zone between them and the wider society (see discussions in Anderson 1983, 1988a; Finlayson 1991; Martin 1993, 1995; Myers 1986; Peterson 1993; Sansom 1980, 1988; Schwab 1995; Trigger 1992). Objective disparities in power and wealth can be transformed by such Aboriginal agency through a process of co-opting others, often outsiders (including non-Aboriginal people) to become patrons or 'bosses'.

Personalising 'market' transactions

It has been suggested that within the Aboriginal domain money is, in a sense, personalised. Equivalently, Aboriginal people will actively strategise to incorporate outsiders—taxi drivers, store managers, agency staff working in communities and so on—into the world of Aboriginal 'performative sociality' (Martin 1993). By this is meant a social universe in which relatedness is established through the flows of cash, goods and services between people, and in which Aboriginal people actively resist confining social relationships (including those with outsiders) to the terms of their formal institutional roles.

For the Wik people of western Cape York Peninsula, for example, the term 'customer' does not refer to the market-based relationship of the purchaser of goods or services, but to individuals in dyadic and personalised partnerships involving exchanges of cash such as loans and gambling stakes. Reciprocity and public sociability between the partners are both essential elements. Suggestively, both partners in the relationship refer to each other as 'customers' (Martin 1993, 1995).

By incorporating significant others into their system of social relations, Aboriginal people are attempting to subject them to their own system of obligations constructed in terms of flows of goods and services. Thus, for example, by establishing personalised relationships with a pastoral store manager, or a taxi driver in Alice Springs, an Aboriginal person can (from his or her own cultural logic) offer patronage, respect and amicable relations, and in return gain access to goods, services and credit (through book-up).

A primary mechanism through which the flow of goods and services is realised is what anthropologists (following Peterson 1993) have termed 'demand sharing', and which Aboriginal people in central Australia call 'humbugging'. Much Aboriginal social transaction (particularly that involving access to material resources such as the use of vehicles, food, tobacco, alcohol and cash) arises as the result of demanding rather than of sharing. In demanding, an individual is asserting their personal right (as a son, an aunt, a clansman and so forth) to a response from others, but is also acknowledging, and thus through their actions substantiating, their relationship with the other person (Martin 1995; Musharbash 2000; Schwab 1995).

Such demanding is not confined within the Aboriginal domain. One of the social phenomena which non-Aboriginal staff in remote Aboriginal Australia find the most difficult to deal with is the constant demands for access to resources such as the use of vehicles, cash 'loans', booking down, and so forth. There is considerable ethnography on this dynamic (e.g. Gerrard 1989; Martin 1995; Musharbash 2000; Peterson 1993; Sansom 1980; Schwab 1995), but for the purposes of this chapter it suffices to say that 'humbugging' does not just represent the incapacity of the Aboriginal individual to manage his or her financial affairs, nor does it reflect an

uninhibited desire for material goods as such. Rather, it demonstrates a process through which access to valued resources is established through a particular form of Aboriginal instrumental action where relationships are constructed in personal, rather than market-based terms.

The implications of these arguments can be illustrated in a case study involving a store run by a pastoralist in a remote location in the Northern Territory.

Case study: a remote pastoral station store

Small stores are operated by pastoralists in many areas of the Northern Territory. In some cases, these stores service permanent Aboriginal populations living on excisions within the station. In others, they provide competition to stores on major Aboriginal communities in their region. While many pastoral stores focus on Aboriginal customers, others also target the passing tourist trade.

A station store that services only the employees of the pastoralist falls under the definition of 'pastoral purposes' as defined in the *Pastoral Land Act 1992* (NT). On the other hand, a store constructed on a main road with the intent of capturing passing trade does not fall within the definition of 'pastoral purposes'. Under s. 86 of the *Pastoral Land Act*, a pastoral lessee who wishes to use part of the lease for a non-pastoral purpose may apply to the Pastoral Land Board for permission to do so. Once a store becomes a successful stand-alone commercial enterprise, it is expected that the pastoralist will apply to excise land from the lease as an alternative tenure, a term Crown lease with a right to freehold upon completion of development. An application for such an excision can be made by a third party, with consent of the pastoral lessee. Relevant future act provisions of the *Native Title Act 1993* (Cth) have to be followed.

Information from the Northern Territory Cattlemen's Association (B. Lee, pers. comm.), suggests that permission to establish a store, as a non-pastoral purpose, is not always formally sought. In any event, in contrast to the situation on Aboriginal lands held under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (ALRA), the legislation as such does not appear to raise structural impediments to the establishment of small retail operations on pastoral lease lands.

The following case study concerns a pastoral store in a remote area of the Northern Territory. A pastoralist and his family supplement their income from their pastoral enterprise in relatively marginal cattle country, through operating a store alongside the gravel road running past their homestead. They have established a reasonably well-stocked store in quite substantial premises. The store provides an income for the pastoralist without which, he stated, the viability of his overall operation would be compromised. Almost all the trade at this store involves Aboriginal customers. No Aboriginal

people live on the freehold land where the store is located, so Aboriginal people are travelling from three or four major communities (with stores) located within a radius of several hundred kilometres, with some customers travelling from outside the Northern Territory. This prompts the question: why are Aboriginal people prepared to travel such long distances to use the store?

At the time of our visit, no prices were marked, either on the goods themselves or on the shelves. The store operated an EFTPOS system through the till, and we observed that a significant number of keycards were held behind the counter. We were also advised that the store held PIN numbers for some of the cards. The store manager readily acknowledged that this created considerable potential for exploitation, and that the probity of the system depended upon the honesty of himself and his family. The store also operated a book-up system, with a sliding scale of charges according to the amount purchased on credit. A sign above the till stated the charge as \$9 for up to \$50 credit, \$11 for up to \$100 credit, and thereafter \$9 for each additional \$100 credit.²

Certain of these practices would seem to be undesirable, and some may even fall under the 'unconscionable conduct' provisions of the TPA. Bruce (1999: 28) has identified two themes underlying case law on the unconscionable conduct provisions of the TPA:

- an unequal relationship exists in the sense that one of the parties is under a special disability by virtue of age, infirmity, illiteracy or lack of education
- the stronger party is aware of the disability and then exploits it to his or her advantage.

It could be argued that these elements are present in the situation outlined above. However, there is another set of factors in this complex situation, which relate to the question of Aboriginal agency; that is, the instrumental actions of Aboriginal people in accordance with particular values and understandings.

The store does not have a captive market. All consumers travel large distances to use the store and, further, this store is competing with the

² Until recently such fees may have fallen outside the Uniform Consumer Credit Code (UCCC) provided that they did not cover lending for a period of less than 62 days. However, the code has just been amended to cover pay-day lending (i.e. lending a small amount of money repayable on the customer's next pay-day). It may be that these provisions may also cover the fees on borrowing charged by community stores.

larger ones operating at all of the communities from which its customers come. Far from being a disincentive for reasons of high fuel costs and the time involved, travel itself can involve other valued activities such as visiting country, hunting, and maintaining contact with relatives over an extended region. Also, people can exercise some choice as to who travels with them to the pastoral store, and thus reduce the demands from relations on their cash while actually shopping (see also Musharbash 2000: 59–60). By leaving their keycards with the storekeeper, Aboriginal people can avoid the all-pervasive ‘humbugging’ for cash from relations, particularly on those days when wages or pensions are known to be deposited electronically into accounts, and they may also accumulate savings. The store’s customers are thus clearly exercising choice.

Furthermore, this particular pastoralist has lived in the area for some fourteen years, and knows most Aboriginal people of the region by name. While pragmatic in his attitudes, he also appeared to demonstrate knowledge of, and respect towards, particular distinct Aboriginal values and practices; for example, by his own account, he took active steps to protect Aboriginal people passing through on ceremonial business from unwanted scrutiny by outsiders.

It transpired that there were no Aboriginal customers at the store at the time of our field visit, and so it was not possible to ascertain directly their own views of the situation. Nonetheless, it would be reasonable to assume, on the evidence available to us, that Aboriginal customers have established a particular form of mutuality with the storekeeper and his family, in which they structure certain of their financial and purchasing dealings through personalised rather than market-derived relationships. The store therefore arguably operates in a complex ‘intercultural space’ (Merlan, 1998), in which **both** Aboriginal agency and (possibly) undesirable or even unconscionable sales practices are features.

Competitive markets in remote Aboriginal communities

The purpose of the TPA is to enhance 'the welfare of Australians through the promotion of competition and fair trading and provision of consumer protection' (s. 2, TPA). Competition can be defined as the pressure that firms exert on each other when acting independently to achieve the maximum amount of profit. The degree of actual or potential competition in a market determines the market power of firms.³ Corones (1999: 85) notes that '[m]arket power, whether possessed by a single firm or firms acting collectively, is a measure of the ability of firms to harm consumers through excessive prices, inferior products and poor service'. Thus a market may be non-competitive if there are only one or two firms in the market such that each can exercise a large degree of market power. In addition, barriers to entry to the market will also restrict competition. These may include legislative barriers that place restrictions on entry into the market, and structural barriers such as the high start-up costs of entry. Finally, differential access to information on the part of the buyer and seller of a good in a market, termed 'asymmetries of information', can also result in markets operating non-competitively.

In standard economic theory, a number of benefits flow to consumers in a market which is competitive. Competitive markets are viewed as efficient 'in terms of producing goods and services at the lowest average cost of production and producing the goods and services that consumers value the most' (Corones 1999: 5). Recognising the benefits that flow to consumers in a competitive market, the TPA includes a number of provisions designed to promote competition (in particular Part IV s. 45–50). Acquiring market power is not illegal in itself, but misuse of market power for anti-competitive purposes is (s. 46). However, the ACCC may authorise conduct which may otherwise breach its anti-competitive provisions on the basis that it is of public benefit (under s. 88).

One aim of this research is to identify special characteristics of Aboriginal communities which inhibit competitive processes from delivering benefits enjoyed by other communities (market failure), and which should be taken into account in ACCC compliance or education strategies. As the key enterprises in remote Aboriginal communities, community stores provide an excellent case study for examining the operation of competitive markets. Factors that have been identified as barriers to the operation of competitive markets in remote Aboriginal communities, as exemplified by community stores, are:

³ The definition of a market is contained in s. 4(E) of the TPA, which provides that: '[a] market means a market in Australia and, when used in relation to goods and services, includes a market for those goods and services and any other goods and services that are substitutable for, or otherwise competitive with, the first mentioned goods and services.'

- structural impediments, and in particular high transport costs
- the limited number of stores in remote areas in general, and Aboriginal communities in particular
- problems of governance which prevent the efficient operation of stores and may also operate as a barrier to the entry of new stores
- the cultural context of community stores (see Altman, McDonnell & Ward 2001)
- high labour costs in remote communities
- land rights legislation which may also operate as a barrier to entry of firms onto Aboriginal land.

The following section will discuss each of these factors in general terms, before focusing on the fieldwork conducted on remote Aboriginal community stores.

The market power of community stores

The higher prices charged for goods in some community stores could be indicative of a number of factors.⁴ It could be that higher prices reflect structural impediments or other problems in the operation of stores (discussed below), but it is equally possible that they reflect, at least in part, the market power of community stores. While higher prices are not, in and of themselves, a breach of the TPA, abuse of market power is (in accordance with Part IV, s. 46).

Most community stores have a high degree of market power either as the only provider, or as one of a few providers of goods to their community. Even where there is more than one store in a community they are not necessarily acting as competitors. For example, in Yuendumu there are two stores. Food and goods are purchased mainly from the larger community store. Another much smaller corner

⁴ Prices charged for goods are the focal point for most discussions of the operation of remote community stores. Both Aboriginal and non-Aboriginal people often express concern at the prices charged at their local community store. Wells (1993: 160) notes that 'pricing policy is an especially important issue at a broad based community level'. There are numerous accounts of the high prices charged for goods in remote communities relative to urban centres (Crough & Christopherson 1993; Sullivan et al. 1987; Leonard 1998). Recent studies conducted by the NT Government's Health Service indicate that the cost of a basket of goods in most remote community stores in the NT relative to the equivalent basket of goods purchased in Darwin was 28 per cent higher (THS 2000: 8). While there are a number of limitations in these studies (see Altman, McDonnell & Ward 2001: 5–6) there is a substantial body of evidence that prices in remote communities are higher than in urban centres.

store also provides some food and a limited number of goods. Competition between the two stores is minimal. While the smaller corner store has seen an increase in demand for its goods, mainly because its prices are lower than the larger community store, its small physical and stock-handling capacity mean that it is unable to meet the needs of a population of some 800 people. Moreover, fieldwork indicated that even where there are two stores operating, agreements may be made between them so that they do not operate in direct competition with each other over certain products. Thus, for example, in one community there is an understanding between store managements that one store will handle sporting goods, shoes and clothes, while the other will handle petrol and stock goods for tourists. While this may not be an explicit 'arrangement' it may lead to a lessening of competition in markets for certain products and as such it may be considered an 'understanding' which contravenes s. 45 of the TPA. On the other hand, it may be argued that in situations where (as is typically the case) community stores have a limited operating capital base, certain public benefits may be served by ensuring competition in the supply of essential items such as foodstuffs, and limiting it in relation to other non-essential goods. This will particularly be the case where the curtailment of such arrangements would result in the closure of one store, leaving a monopoly.

Market power is also defined in terms of access to other markets, both spatially and over time (*Australian Meat Holdings v TPC*; *Re Queensland Co-operative Milling Association Ltd*; *Re Defiance Holdings Ltd*). In terms of the TPA definition of a market, the geographic scope of a market takes into account whether consumers can access another market. For example, the distance to the next store would be a relevant factor. If a community store is the only store within a 500-kilometre radius, access to other stores is unlikely to be a constraint on its market power. Sheer distance confers a monopoly; without access to other markets a population will become dependent on purchasing goods from the community store. Monopoly in its turn allows the charging of high prices, some component of which may also reflect the increased transport costs associated with distance from major centres.

The limited access of remote Aboriginal communities to markets is also seasonally dictated: this is a temporal dimension of market power. For example, Yuendumu, Maningrida, Ntaria and Aurukun are all isolated by flooding at certain times of the year, so that basic goods either have to be flown in or, for the coastal communities, brought by barge. Thus stores in most of these markets operate as the only providers of goods for certain times of the year.

The market power of community stores is also indicated the dependence of certain sections of the community on goods provided by them, particularly the elderly and those with limited access to transport. For those groups the community store becomes an essential provider of basic goods including food, water, clothes and blankets. They constitute, in effect, a captive market. The failure of the community

store to meet these basic needs, as well as increased prices on basic foodstuffs, can impact seriously on vulnerable sections of the community.⁵

Aboriginal people in remote Aboriginal communities appear to be more dependent on community stores than local non-Aboriginal people. Interviews conducted during the fieldwork indicate that non-Aboriginal people, with their generally higher socioeconomic status, can afford to order food and goods directly from distant service centres, and have them freighted or flown in. This practice is noted by Altman (2001) in Maningrida, where local non-Aboriginal residents often buy items from Darwin and have them delivered by air or barge. Finlayson (1997: 11) notes that in one remote Queensland community, '[i]nstead of shopping locally on a needs basis, each [non-Aboriginal] household organises a three-month "bush order" of fresh fruit, vegetables and meat, together with dry goods to be delivered by barge from a regional centre'. One of the reasons that non-Aboriginal people are able to shop in such large amounts while Aboriginal people tend not to is that:

[a]ll non-indigenous houses had domestic freezers ... By contrast, few Aboriginal houses had refrigerators, let alone freezers and most domestic cooking was replaced by daily buying of food from the community 'take away' (1997: 11–12).

Based on her research Finlayson concludes that:

almost without exception, no non-Aboriginal staff shop at the community store ... In this way they were able to avoid the high prices and questionable quality of goods in the community store (1997: 11).

Access to transport is another reason that non-Aboriginal people may be less dependent on community stores than the Aboriginal population in remote communities. Most non-Aboriginal people in communities either have their own car, or have access to a car by way of their occupation. This allows them to visit other stores within a region, as well as the regional service centre. For Aboriginal people connections with non-Aboriginal locals, and particularly those with access to a car, becomes an important resource. There are non-Aboriginal service staff who make frequent visits between service centres and remote communities, and non-Aboriginal residents of communities can, and often do, take advantage of this. For example, a non-Aboriginal woman employed in the medical centre in Yuendumu made the comment that she often asked colleagues coming from Alice Springs to pick up pre-ordered packages of groceries for her.

⁵ How much it will impact on a community will depend, in part, on the degree of self-provisioning activities, such as collection of bush foods, that community members engage in (see Altman, McDonnell & Ward 2001: 6). It will also depend on the ability of community members to obtain provisions from other stores outside the region, either directly themselves, or through family members.

Demand inelasticity

One indicator of the dependence of the community, and in particular certain sections of the community, on goods provided by stores can be seen in the inelasticity of demand for some items. If demand for a good is inelastic then increases in the price of a good will not proportionally affect the quantity of the good that is demanded. For example general consumer demand for cigarettes is relatively inelastic. A large body of anecdotal evidence exists to suggest that Aboriginal demand for some items may be relatively inelastic (see Martin 1993, 1998). For example, Wells quotes McMillan, the director of the Arnhem Land Progress Association (ALPA) between 1988 and 1992, as saying:

The Aboriginal customer will pay almost anything for something they want. Conversely if they do not want something you cannot give it away. A recent example in one of our shops was a table of dresses to clear at \$2.00 each, without one sale—this would never happen in the urban centres of Australia (1993: 160).

During interviews a number of store managers commented on the relatively inelastic demand for certain items. For example, store managers at Yuelamu described the demand for 'mink blankets' as so great that they 'could charge anything' for them. Part of the reason that demand is so high is that in addition to their obvious uses, in many Aboriginal communities around central Australia blankets have an important ceremonial role in 'sorry business'.

Inelastic demand for certain items may make the Aboriginal populations of remote communities vulnerable to price exploitation. This vulnerability is compounded by low levels of literacy, which lead to dependence on the pictorial, brand-label representation of certain goods. McMillan notes that:

Brand loyalty is very high, but this is probably a reflection of literacy levels rather than product preference. If tea comes in a blue packet you don't buy it in a yellow one. The fact that one is Bushells and one Liptons is beside the point (1991: 283).

During interviews a number of store managers detailed experiences of products no longer selling because companies changed their packaging. They also considered that Aboriginal customers were less likely to buy the generic brands of some products because of loyalty to particular brands, an experience supported by McMillan (1991: 283) who states that, '[I]literacy and product recognition by colour limit [ALPA's] ability to market generic house brands'.

McMillan's ALPA experience suggests that the relative inelasticity of demand for some items may mean that Aboriginal people could fall prey to exploitative pricing on some goods (McMillan 1991). Advertising may in some cases reinforce brand loyalty; Wells (1993) expresses the view that people respond quickly to advertising for particular products. Advertising seems particularly evident in Aboriginal consumers' preference for brand name items. During fieldwork it became apparent

that many Aboriginal consumers, like consumers generally, were particularly attracted to 'high status' brand names. Brand-named clothes such as Nike and Adidas are popular amongst young people as well as clothes that depict black stars (like the rap artist Tupac). Amongst older men Levi jeans, RM Williams boots, Moleskin pants and Akubra hats are popular. While these clothes were relatively expensive, given people's generally small incomes, other non-brand clothes were seen as markedly inferior or 'rubbish' clothes.

Structural impediments to competition

The key question is whether the higher prices charged in community stores are indicative of structural impediments rather than a reflection of market power. The primary reason given in the literature for the failure of markets to operate competitively in remote communities is the role played by structural impediments. For example, the high prices found in remote community stores are often attributed to high transportation costs. Another impediment identified in the literature is the small populations of many isolated Aboriginal communities and associated diseconomies of scale (Legislative Assembly of the Northern Territory 1999).

There are obvious links between high transport costs and a lack of competition in transport services to rural and remote communities. Young argues that:

On the whole store managers have little chance of reducing their freight costs by bargaining with rival firms because few operators serve their region. On the contrary, managers may have to go to some length to persuade carriers to come out to them, and may have to accept terms with little argument (1984: 44).

During fieldwork most store managers indicated that they were dependent on a single transport provider, and this is suggestive of an uncompetitive freight market. By contrast, competition among transport providers clearly has a positive impact on the cost of freight. Recent fieldwork conducted by Altman (2001) suggests that the increase from one to two barge operators to Maningrida, has fostered a higher level of competition and resulted in lower transport costs and cheaper prices in Maningrida's community stores.

Data collected during fieldwork suggests that while transport costs may be an impediment to the efficient operation of community stores it is not particularly significant. A more important impediment may be the governance structures of stores (discussed in greater detail below). The importance of governance, as opposed to transport, to the efficient operation of community stores is evident in data which details the cost structure of community stores handled by Deloitte Touche Tohmatsu (henceforth Deloitte) in Alice Springs. In the years 1995 and 1998 Deloitte provided accountancy services for 11 stores, and by 2000 this number had increased to 15. The information detailed by Deloitte represents a

benchmark, or average, cost structure for all community stores handled by Deloitte in central Australia.

According to Deloitte the average community store operates on a cost structure that is only nominally profitable (see table 1). For example, in 2000, community stores in the Deloitte sample with an average turnover of \$1 038 619 returned a net profit of only 3.5 per cent. In addition, while the expected gross profit for businesses is usually one-third of turnover (or 33 per cent), the community stores in the Deloitte sample recorded a gross profit of between 29.8 per cent (in 1998) and 30.5 per cent (in 1995). The Deloitte accountants attributed this to managers who failed to process or receipt goods that had been taken from the store, unrecorded stock spoilage, and the provision of loans to community store committee members.

Between 1995 and 2000 freight charges accounted for between 2.3 per cent and 3.8 per cent of costs relative to annual turnover. Store managers interviewed during fieldwork estimated the cost of freight at between 2 and 5 per cent of annual turnover. This can be contrasted to the mark-up policy detailed to us by store managers and accountants of community stores, who indicated that most stores mark up the price of goods by between 60 and 100 per cent, depending on the type of good. This policy seems to indicate that the costs of freight are minimal in the overall cost structure of most stores and do not seem to justify the generally high prices that are found.

Store governance

In the context of this chapter, 'governance' refers to the processes and structures through which communities and organisations are controlled and directed, and necessarily involves questions of power, influence, and accountability. There are two levels at which governance is relevant to this study. The first is the wider structural level, as mediated through statutory regimes and institutions such as the ALRA (see discussion below), and the Aboriginal community government system established under Part V of the *Local Government Act 1993* (NT). The second is at the level of the stores themselves.

Governance has long been identified as an issue of importance in relation to community stores (see for example the Legislative Assembly of the Northern Territory's Inquiry into food prices 1999; George 1996; Young 1988, Young et al. 1993). Community stores are typically operated by incorporated associations with Aboriginal boards (referred to as 'store committees'). A study of remote stores conducted by the Territory Health Services (THS) of the Northern Territory (2000) shows that the majority (66 per cent) of surveyed stores were owned either through community-based associations or through other forms of Aboriginal corporation (see table 2). In addition, community stores are often under Aboriginal management to some degree. Table 2 indicates that of the stores surveyed nearly half (48 per cent) had a store committee.

Table 1. Average cost structure of remote central Australian Aboriginal community stores 1995, 1998, 2000

Account	1995		1998		2000	
	Av. (\$)	Av. (%)	Av. (\$)	Av. (%)	Av. (\$)	Av. (%)
Sales	1099427	100.0	1051392	100.0	1038619	100.0
Cost of sales (excluding freight)	764063	69.5	737958	70.2	724785	69.8
Gross profit	335364	30.5	313435	29.8	313835	30.2
Other income						
Interest received	2164	0.2	2680	0.3	2332	0.2
Other income	38056	3.5	6380	0.6	4654	0.4
Expenses						
Admin. fees	964	0.1	266	0.0	140	0.1
Advertising	404	0.0	240	0.0	69	0.0
Audit & accounting	14652	1.3	15394	1.5	15004	1.3
Bad debts	3218	0.3	2956	0.3	6721	0.3
Bank charges	2373	0.2	3727	0.4	3307	0.2
Committee costs	1485	0.1	1659	0.2	1157	0.1
Depreciation	24294	2.2	36272	3.4	35056	2.2
Distributions & donations	38580	3.5	16788	1.6	14686	1.4
Electr., gas & water	13901	1.3	15914	1.5	14147	1.3
Freight	42228	3.8	24165	2.3	42228	3.8
Insurance	8113	0.7	8033	0.8	7403	0.7
Interest	2476	0.2	352	0.0	625	0.2
Legal costs	934	0.1	192	0.0	34	0.1
Manager's expenses	5789	0.5	731	0.1	2315	0.5
Recruitment	375	0.0	-	-	553	0.0
R & M	19014	1.7	12030	1.1	10790	1.7
Security	1031	0.1	556	0.1	342	0.1
Staff amenities	895	0.1	899	0.1	2088	0.1
Stock written off	2535	0.2	2288	0.2	4830	0.2
Superannuation	3683	0.3	6459	0.6	8072	0.3
Telephone, fax	4740	0.4	3494	0.3	4903	0.4
Travel & accomm.	2874	0.3	3662	0.3	4443	0.3
Wages & salaries	131644	12.0	123548	11.8	131491	12.0
Other expenses	12031	1.4	18227	1.5	27176	1.4
Total expenses	337300	30.7	293958	28.0	305343	30.7
Net profit	38284	3.5	28537	2.7	15478	3.5

Source: Data supplied by Deloitte Touche Tohmatsu in 2001.

Table 2. Ownership and management structure of remote stores in the Northern Territory, 2000

District	Darwin	Katherine	East Arnhem	Alice Springs	Barkly	Total no. of stores
Ownership						
Community owned	9	10	3	4	2	28
Privately owned/leased	1	10	0	1	6	18
Aboriginal corporation	4	1	3	0	1	9
Not stated				1		1
Management						
Store committee	10	9	4	3	1	27
Total stores surveyed	14	21	6	6	9	56

Source: THS 2000.

While the corporate structure of most community stores seems to indicate that there is a high degree of Aboriginal management, in actuality community stores are often run by non-Aboriginal managers. Young et al. write that while the decisions relating to the five stores operated by ALPA were made, in theory, by an Aboriginal board of directors, in practice this was not the case:

[i]n reality, technical matters such as those concerning stock ordering systems, dealing with the transport services ... developing training curricula and the methods for delivering these, supervising the work of non-Aboriginal store managers and running the financial and accountancy services, are dealt with by the Executive Director and head office staff. Most of these are non-Aboriginal. Thus Aboriginal control in ALPA's day-to-day operations ... is limited (1993: 7).

One of the reasons why Aboriginal community boards may fail to play a direct role in the day-to-day running of stores is that they lack the necessary skills. Young et al. write that the 'Aboriginal/non-Aboriginal split in responsibility for policy and technical matters is unlikely to change until Aboriginal people have been given the opportunity to acquire the necessary technical skills' (1993: 7). Technical skills are important to the legal operation of community stores, and there may be a role for the ACCC in educating store committees about the operation of the TPA (see below).

Most community stores are operated by small corporations whose membership is drawn from the community, and whose boards (typically called 'store committees') are elected from that membership. While sound investment principles would suggest the need for substantial reinvestment of profits in the business, store committees are under considerable pressure to disburse the profits to community

members. Whether or not the community store profits are distributed, and to whom, is often a contentious issue in communities. The store committee's difficulties in balancing cultural obligations with obligations to the wider community become evident. Wells (1993: 156) writes that '[t]he dispersal of store profits is probably one of the more problematical areas of store operation and management'. In particular, this is a problem if large amounts of Aboriginal community members' money goes into the store (as is inevitably the case), and this money is syphoned off to benefit only a few people. Wells writes:

In many cases, the store is the only independent economic enterprise in the community and, because of this independence, can be used as a means to enhance the political status and power of a particular family, clan or individual within the community (1993: 157–8).

Further, Wells adds that in this context:

[i]t is fairly unrealistic to expect that any profit arising from the business will not be utilised by a small number of people (which is then distributed to their families) who feel that they have some 'right' to these resources (1993: 158).

Other examples of the use of profits are community store-funded mini-buses or barges (see Povinelli, 1993) and the use of profits to build a swimming pool or to fund other local infrastructure. Elsewhere, store profits are paid directly to community members as an annual dividend. For example the Yuelamu community store distributed \$500 to every Aboriginal adult member of the store during the summer period, and \$100 to every Aboriginal adult and child member of the Yuelamu community at Christmas.

Dissent over distribution of profits, compounded by the high prices paid for food and goods, has led to some stores looking at alternative pricing models. For example, in 1992 the ALPA board of directors were presented with the option of lowering profits and reducing prices, rather than distributing profits to the various communities (Wells 1993: 170). A similar policy is currently being pursued by the community store in Mutitjulu. The Mutitjulu community owns and operates the highly profitable cultural centre enterprise located at Uluru (Ayers Rock). Recently the Mutitjulu Council has directed that profits from the cultural centre be used to cross-subsidise the price of goods in the community store. However, at present it is unclear how successful this strategy has been, with fieldwork indicating that many prices in the Mutitjulu community store remain higher than those in the supermarket located at the nearby Yulara Resort.

One of the reasons that distribution of profits remains such a contentious issue in remote communities is that there is often little or no accountability by the manager to the store committee. In addition, there is often a lack of transparency in the way the store is operated. For example the store committee and the general community are often ignorant of the cost structure implemented or the profit made by the

store. It may also be that some members of Aboriginal store committees receive money in the form of indefinite 'loans' from the manager. Thus a symbiotic relationship may arise between the store committee and the manager of the store, which benefits the few while resulting in increased prices for the many. Deloitte's data (see table 1) indicate that in 1995 the average amount of money paid by community stores in 'distributions and donations' was \$38 500. However, between 1995 and 2000 there has been a decline in this amount, and it is possible that, with the increased accountability of stores associated with the introduction of the GST, payments in 'distributions and donations' may continue to decline. Another cost related to store committees is 'committee costs' or sitting fees paid to members of the store committee, and 'bad debts'. Deloitte's data indicate that these costs are, however, quite nominal, amounting to an average cost of approximately \$7000 in 2000.

The wages and salaries paid to the store manager and staff are also relevant to a discussion of governance. Under the kind of symbiotic relationship discussed above, store managers who have given a large number of 'loans' to committee members have leverage to ensure that they have generous terms detailed in their contracts. A lack of accountability and transparency in the operation of the store, when combined with a store committee whose members have a poor understanding of non-Aboriginal corporate governance requirements, can lead to confusion over the salaried amount actually paid to staff. For example, in an interview conducted during fieldwork, the chair of a store committee said that he had no idea what the manager of the store was being paid, or even if a contract between the store manager and committee existed. The manager has been working in the store with a large staff of non-Aboriginal people for almost two years, during which time all of the staff must have been paid. That the chair of the committee, as the employer of these staff, is unaware of the amounts they are being paid, is a demonstration of the stark contrast between the supposed legal corporate governance structure of store committees and the way that most operate in reality.

Governance and 'culture'

The difficulty of balancing Aboriginal cultural obligations with the legal obligations imposed under the general Australian legal system is a problem that plagues many store committees. One example, detailed above, is the problems encountered in the distribution of profits from community stores. Recognition of the need to balance Aboriginal cultural and non-Aboriginal legal obligations can be seen, for example, in the 1992 ALPA Annual Report which discusses the need to find an appropriate 'culture' in which ALPA stores can operate:

We have now developed to a stage where it is difficult to decide whether ALPA is operated by 'Balanda' [white] culture or 'Yolngu' culture. There is no doubt in the minds of the directors and staff that ALPA is controlled by Aboriginal people for the benefit of Aboriginal people, and just who those people are. The dilemma comes when it is

necessary to structure ALPA in a form that complies with Balanda law ... One of the responsibilities we have as a board of directors is to work out a 'Business culture' that runs a business with balanda skills where necessary, but for the benefit of Yolngu people at all times ... the struggle to find an authentic ALPA culture continues, and is a constant challenge before us (Rawnsley 1992).

There are a number of reasons for the gulf between Aboriginal cultural and non-Aboriginal understandings as to how stores should operate. First, the lack of accountability and transparency in the operation of many community stores poses a number of difficulties, as discussed above. Second, committees often do not understand their rights and responsibilities under non-Aboriginal law, in particular with respect to the accountability of store managers. Third, it appears that often Aboriginal community members do not understand that they have rights as members of the corporation that operates the store.

In theory, the corporate governance structures under which most community stores operate ensure that members could take action over the ineffectual management of a store. However, in reality, such action is unlikely to occur. Wells writes that most Aboriginal people consider the operation of the ALPA stores to be 'Balanda' business over which they have no rights: 'attempts to make community residents aware that they all, theoretically, control the Association and that ALPA is working for Aboriginal people have not been entirely successful' (1993: 169). One reason for the lack of awareness about members' rights may be that in the past many community stores were owned and controlled by non-Aboriginal people (Wells, 1993: 169). As a result of this historical legacy:

The store has always been seen as a European institution, and ownership groups continue to view it in that way, taking close notice of the ideas of European advisers who work with them (Young 1984: 73).

Given this historical context it is not difficult to understand why many Aboriginal people feel that they lack rights in the control of the store.

Aboriginal members of a community store may not feel entitled to exercise their members' rights because, in terms of customary law, the rights of traditional owners (discussed later) should prevail. Often the latter are considered paramount in the operation of businesses in Aboriginal communities. Wells notes that: 'there is a perception among Aboriginal people that they do not have a right to speak for or control resources, be it a store, land or another enterprise, if they do not have traditional rights/ownership to it' (1993: 169). The governance structures of community stores may take account of these obligations to traditional owners by, for example, paying rent to them or appointing them to the store committee. However, recognition of these traditional owner's rights may further confuse the issue of Aboriginal members' rights.

Finally, it may be that customary law concepts of access to knowledge also influence Aboriginal people's understanding of who has rights in relation to community stores. Rights in Aboriginal society are often conferred on the basis of differential access to knowledge. Personal authority, the authority of elders and the integrity and autonomy of Aboriginal groups often depends on the control of land-related knowledge through restrictions on its dissemination (Bird Rose 1994: 2). Thus in some communities it may be thought that people with control over stores have possession of certain knowledge that is not freely available to all. Wells writes that:

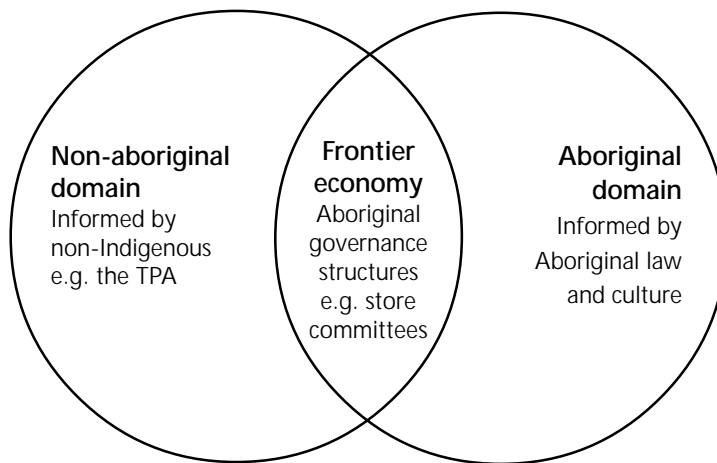
there are particular 'rights' associated with having access to this [store] knowledge, to being employed in the store, to becoming a director ... ultimately it is the ALPA Balanda hierarchy (which includes local store managers) who possess the most knowledge and therefore power. There is a perception among Aboriginal people that Balanda are hanging onto secret stories, that there is a 'behind story' which storeworkers and the community in general do not have access to (1993: 169).

Wells' account is supported by Harper, as quoted by Wells, who states that: 'there is a perception in the community that Yolngu do all the jobs but they don't get the underneath knowledge' (Wells, 1993: 169).

It may be that lack of access to 'store knowledge' causes Yolngu people to feel that they cannot control the store. The framing of 'store knowledge' as 'restricted knowledge', if Wells is correct in her analysis, suggests that Aboriginal members of ALPA neither understand their rights as members nor feel empowered enough to exercise those rights.

The gulf between Aboriginal and non-Aboriginal understandings may be framed in terms of the frontier economy. Located within the frontier economy, Aboriginal governance structures such as store committees and local councils have to balance the obligations imposed upon them by the two domains of which they form the intersection—the Aboriginal and the non-Aboriginal. They must thus meet the demands of their Aboriginal constituency—the community elders, traditional owners and their kin—and also those of the non-Aboriginal bodies to whom they are accountable—auditors and accountants and a variety of statutory agencies. While these obligations are not always conflicting, their import must be recognised before any changes can be made to the way store committees currently operate.

Fig. 3. Aboriginal governance structures such as store committees



The argument that competition, in and of itself, can overcome the problems of governance in community stores, fails to take account of the cultural context in which they operate. This is not to deny the importance of introducing or maintaining a degree of competition in remote Aboriginal communities, but TPA provisions on anti-competitive behaviour do not provide the full answer. Some of the more pressing problems of governance in community stores clearly lie outside the purview of the TPA, but unless the governance structures of community stores are improved, competition amongst stores cannot fully enhance consumer welfare. Well-run community stores can have a positive impact on pricing, but poorly managed and governed stores can result in consumers paying higher prices than they would otherwise.

The socio-cultural context of stores

The practices of community stores must thus be interpreted with reference to their cultural context. The continuing strength of Aboriginal social formations, and the values that underpin them such as the importance accorded to kinship, have led to a series of specifically Aboriginal economic practices. These values have far-reaching impacts on the ways in which individual and household expenditure, labour and business are viewed. In the Aboriginal domain the amount of money exchanged for consumer goods or labour is often not dependent on their economic value but rather on a contextual assessment of the social worth of the proposed transaction (see above). Thus Aboriginal communities may evaluate the success of a business less in terms of its commercial viability and more in terms of its ability to generate social capital by, for example, enhancing social and political relationships. Accordingly, resources are invested in enterprises that generate social rather than material capital. Aboriginal business enterprises that are interpreted as

failing in commercial terms, may work to produce wealth in the form of social relationships and alliances (Martin 1995: 7–17).

The practice of demand sharing can also have a number of impacts on the operation of Aboriginal businesses. Pressure is placed on business owners to share not only their earnings but also any assets and equipment, such as cars, that the business might own.

Demand sharing can also have implications for the Aboriginal staff working in businesses such as community stores. Young et al. wrote that:

Aboriginal employees in stores can easily acquire the necessary technical skills but they have to be able to use these in a situation where they are frequently subjected to pressures of a more social nature. The difficulties which Aboriginal check-out operators in Australia face when confronted by relatives with supermarket trolleys filled with goods which they cannot afford to pay for is only one example of such pressures (1993: 8).

A further example of pressure being placed on Aboriginal staff is offered by Ellanna et al.:

Young women are particularly vulnerable in this way, both because of age and gender. Loss of stock in Aboriginal retail stores, where most check-out operators are young women, can be partly attributed to older men taking advantage of their powerful position in the community (1988: 60).

A number of community stores have developed strategies for helping staff to deal with demand-sharing pressure. Wells (1993: 163) reports that ALPA has developed a system, called 'family law', in which at the request of an Aboriginal staff member or manager the staff member is removed from the check-out and given other duties while their family is in the store. In addition, the presence of in-store video cameras which record check-out transactions, such as are found in the Maningrida stores, can stop pressure being placed on staff by family members.

Aboriginal hierarchies of power and authority may at times conflict with the business hierarchy of the store, as when the authority held by elderly family members (and based on traditional knowledge) is used to over-rule the business decisions of younger, more commercially educated, kin (see Young 1988: 184–7). Ellanna et al. also refer to this type of conflict:

[s]ince many of those involved in the financial and management sides of enterprise operation are younger, more highly educated members of the community it follows that their authority may frequently be over-ruled by their older kin, and they may feel obliged to hand on benefits to the detriment of the commercial side of the business (1988: 60).

Conflicts affecting the practice of Aboriginal business can also arise from the relationships between individuals or groups and areas of land. The traditional owners of an area of land often have the responsibility and right to control activity within that area. In recognition of these rights the Aboriginal owners of the land that a business is located on often receive 'royalty' or 'rent' payments. This is an established practice particularly in the Northern Territory (and is discussed in greater detail below).

Relationships to land are also significant in determining the appropriate management structures for businesses, not only in obvious examples such as cattle stations, but also for any enterprise located on Aboriginal land (Young, 1988: 184–7). In practice the result can be the domination of the business by land-owning groups, or the creation of irreconcilable conflicts that result in the replacement of Aboriginal business owners with non-Aboriginal operators (Peterson 1985: 90).

Land rights legislation

It can be argued that land rights legislation forms one, albeit not determinative, statutory barrier to the operation of fully competitive markets in remote Aboriginal communities. For example, in the Northern Territory many Aboriginal communities are located on Aboriginal land that is inalienable freehold title granted under the ALRA. The following discussion will concentrate on the ALRA, since it is currently the most extensive form of land rights accorded to Aboriginal people in Australia. Under s. 23 of the Act a land council must consult with traditional owners and other affected Aboriginal people before it can approve a grant of interest in Aboriginal land, including for the establishment of a business on Aboriginal land. This can be contrasted with the situation of pastoral station stores (detailed above), in which there seem to be few legislative barriers to the establishment of stores.

Land rights legislation may represent a significant legislative barrier to entry for certain types of business. In accordance with the Act, different legislative requirements must be met, depending on the type of business. If the business involved requires simply entering Aboriginal land, as in the case of the sale of insurance premiums, then a permit to enter Aboriginal land will be required (see s. 70 ALRA). This permit requirement applies to all people visiting Aboriginal communities for work or any other purpose, on a short or long term basis (Central Land Council (CLC) 2001). Permits are provided through regional land councils that seek approval for permits from the community councils. Governance issues are thus significant in decisions about the granting of permits and leases.

There have been cases in the Northern Territory where a community council, becoming dissatisfied with a store manager's performance, has revoked that person's permit and required them to leave Aboriginal land. During fieldwork a number of store managers expressed dissatisfaction at the uncertainty of working in an environment where they could be forced to leave in this way. The provisions of the ALRA may thus work to discourage good quality applicants from accepting

employment in Aboriginal communities (but they may also work to discourage those who would seek to exploit Aboriginal communities).

If the business involved requires a permanent location in a community then this will require that a lease be entered into with traditional owners (in accordance with s. 19, ALRA). Usually this lease will also include a provision for payment of rent to traditional owners whose land the business is located on. For example, Altman (2001) reports that in Maningrida both the Maningrida Progress Association and Bawinanga Aboriginal Corporation stores pay rent to traditional owners via the Northern Land Council, in recognition of their location on Dekurdiji clan lands. Similarly, when the community store in Ntaria was built, the business entered into a contract for a 20-year lease, agreeing to pay rent to traditional owners. Rents paid to traditional owners vary, and are arrived at through bargaining between traditional owners and the store committee. Fieldwork data suggest that amounts paid to traditional owners are often quite nominal in absolute terms, but may be substantial in the light of people's extremely low incomes. For example, in Ntaria the rent paid to all traditional owners amounts to \$4500 per clan group per year. In Maningrida amounts paid to traditional owners, in the form of subsidised rent (traditional owners on CDEP pay only \$4 per fortnight rent, as opposed to other CDEP participants who pay \$20 per fortnight), are more generous but still amount to only \$416 per person per year.

Finally, evidence suggests that traditional owners have rejected applications from a number of prospective businesses. For example, the Central Land Council has indicated that a number of tourism proposals have been rejected by traditional owners on the ground that they were culturally inappropriate (pers. comm. Tony Keyes). The right of traditional owners to reject applications is a potential barrier to competition. In communications with the CLC, it was indicated that traditional owners who were already receiving rental payments from a community store might not be supportive of the idea of another store acting as competition to it (pers. comm. Tony Keyes). It is admittedly not uncommon in many jurisdictions (even cities) to have to obtain necessary permits prior to operating a particular business on certain land. However, in general the process of the granting (or otherwise) of a permit in such jurisdictions is expected to follow reasonably transparent and codified principles, such as those contained in planning laws. This is not the case in remote Aboriginal communities.

Even where community stores are established and have been in operation for an extended period of time, they can face a number of difficulties in relation to rent paid to traditional owners. Wells offers an example of the problems faced by a number of ALPA stores with rental payments. She notes the comments made at the 1984 ALPA annual meeting:

Traditional landowners, by the law, are entitled to some rent, and this must be fixed once and for all, so that everyone is happy with what is happening. We have talked

with NLC [Northern Land Council] on what is a fair rent to pay. This committee must try and work out a plan that is fair to ALPA ... there [are] a number of skills that Aboriginal people have which Balanda do *not* have, and deciding on rent to landowners is one of those skills (Wells 1993: 164).

The meeting resolved that rent would be paid to traditional owners (for the land) and the Council (as owners of the store building), and would be distributed by community councils (Wells, 1993: 164-5). However, problems with payments to traditional owners continued. Wells reports that while ALPA has been honouring its lease agreements since 1985, money often does not reach the traditional owners (1993: 165). She notes that councils have been in the invidious position of not having enough money to provide services and yet being in charge of distributing money to traditional owners. As a consequence payments to traditional owners were often not made. Moreover, in some communities there is a conflict as to whose land the community store is actually on, making distribution of rent to traditional owners even more difficult (1993: 165).

Labour costs

Another factor that may affect the cost structure of businesses in remote communities is the cost of getting qualified labour. These supposedly high labour costs are used to justify high prices. Deloitte's data indicate that the direct wage and salaries costs faced by stores in their sample was approximately 12 per cent of average annual turnover. In addition to stipulated wage costs managers also incur 'additional expenses' and 'travel and accommodation' costs although these are reasonably small relative to average annual turnover. Together these costs, in addition to the costs of wages and salaries, bring the labour costs of an average community store in the Deloitte's sample to 13.2 per cent of average annual turnover in the years 1995, 1998 and 2000 (see table 1). However, data gathered during fieldwork indicate that in some cases wage costs associated with community stores may be much higher, and in one case made up as much as 40 per cent of annual turnover. Such high labour costs may reflect overstaffing or may indicate that some managers of stores with a large degree of market power inflate staffing costs by paying themselves (and often other family members) large salaries, and then either increase prices or return a lower profit to the community.

Part of the labour cost associated with the operation of community stores may be in the hiring of Aboriginal labour. Community stores are an important source of employment opportunities for Aboriginal people located in remote areas. In relation to this point Young et al. write:

The issue of Aboriginal employment in the stores, particularly at those levels demanding higher levels of skill and more responsibility, is of key importance ... Store work ... gives people skills which are transferable to other key areas, such as working in the council or school office, or running another type of business (1993: 8).

It appears that a number of remote stores utilise Aboriginal labour. Table 3 details the employment characteristics of community stores in the Northern Territory in 2000. Of the 56 stores surveyed, only ten reported that they did not employ any Aboriginal staff. Further, the stores in the survey reported that approximately 60 per cent of all staff employed were Aboriginal.

Table 3. Employment characteristics of remote stores in the Northern Territory, 2000

District	Darwin	Katherine	East Arnhem	Alice Springs	Barkly	Total no. of stores
Stores with no Aboriginal employees	1	5	1	0	3	10
Aboriginal employees	97	55	67	6	12	237
Total employees	133	106	96	16	46	397
Total stores surveyed	14	21	6	6	9	56

Source: THS 2000.

In spite of the level of Aboriginal employment detailed in table 3, none of the stores surveyed during fieldwork in central Australia appeared to employ Aboriginal workers. During interviews a number of store managers express reservations about using Aboriginal labour. These included that Aboriginal workers did not turn up for work and, in particular, that they were tardy or often absent from shifts or away from work on ceremonial business for long periods of time. In addition it was commented that 'training was an ongoing problem because Aboriginal people were not really interested in working in the store', and that cultural obligations (such as the demand sharing obligations discussed above) also presented problems when hiring Aboriginal workers.

Key findings

The key findings of this chapter that have implications for ACCC compliance and education strategies are as follows:

- Consumers need to be aware of the TPA and the obligations it imposes on businesses before they can take action if there has been a breach. The fieldwork and literature review indicate that neither Aboriginal consumers nor Aboriginally operated businesses have much understanding of the TPA and how it operates. This suggests that a directed consumer education strategy may be needed. In addition, the ACCC may wish to become more involved in proactive monitoring of TPA breaches that impact upon Aboriginal consumers.

- Another finding of this research has been the diversity of experience of Aboriginal consumers and businesses. This must be taken into account when designing consumer education materials for Aboriginal people.
- Community stores are the main socioeconomic institution in many remote Aboriginal communities. The way in which community stores are operated, and their corresponding pricing policy, have a dramatic impact on the welfare of their host populations. For this reason it is strongly recommended that the code of conduct developed for community stores be supported both through monitoring and through TPA compliance education for store managers.
- Governance is identified as a major issue for enhancing Aboriginal welfare in remote communities. While not an ACCC responsibility, the way stores and Aboriginal communities are governed has clear implications for consumer rights and the general welfare of Aboriginal consumers. For this reason this chapter recommends that the ACCC become involved in developing a TPA-related education program for store committees and other peak Aboriginal governing bodies.
- The ACCC must recognise that there is a gulf between Aboriginal cultural and non-Aboriginal legal understandings and expectations about how stores should operate. Store committees and local councils have to balance the obligations imposed upon them by both the cultural context in which they operate and the general Australian legal system. While these obligations are not always in conflict, they must be recognised before any changes can be made to the way store committees currently operate.
- The cost of freight and labour may not be major impediments to the operation of stores in remote Aboriginal communities. By contrast, it appears that the ALRA may present something of a legislative barrier to the operation of competitive markets in remote Aboriginal communities. However, there are very strong public interest arguments that militate against the erosion of existing land rights legislation.
- Market sharing arrangements may be taking place amongst community stores in remote Aboriginal communities. This seems to indicate the need for TPA compliance education to be directed specifically at store managers.
- Understanding of Aboriginal agency must inform any action taken by the ACCC for breaches of the TPA. It is important to recognise that it is not necessarily through lack of education that Aboriginal consumers are participating in what are perceived by others to be exploitative transactions.

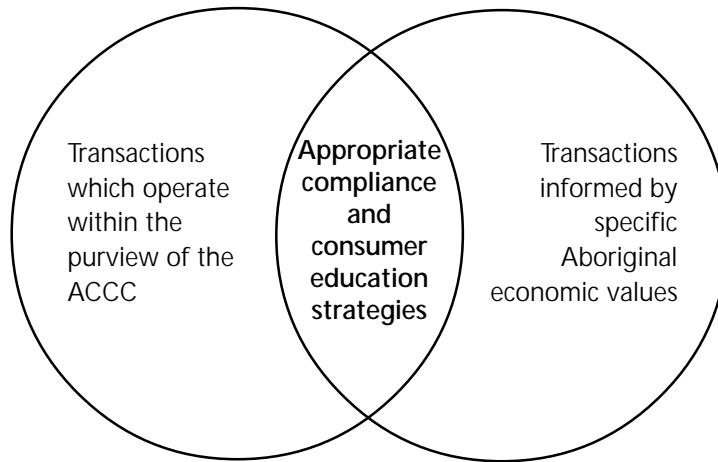
Implications for ACCC compliance and education strategies

Questions remain as to when the ACCC should take action over breaches of the TPA that impact upon Aboriginal consumers. A suggestive analogy may lie in the operations of the Northern Territory Liquor Licensing Commission in remote areas. There are numerous analyses of Aboriginal alcohol consumption patterns which suggest that some of the underlying factors relate to particular distinctive Aboriginal values and practices (e.g. Brady 1991; d'Abbs et al. 1994; Martin 1998). The Commission has adopted a highly proactive and best-practice program, in consultation with community organisations, in order to reduce harmful drinking practices by a variety of mechanisms. Measures include limiting opening times to avoid periods when people receive their pays or pensions, restricting takeaway sales in various ways, negotiating voluntary agreements with publicans, and instituting local and regional controls over the times and types of alcohol sales. That is, the Commission has recognised the particular vulnerability of Aboriginal people—both drinkers and non-drinkers—to the problems occasioned by excessive alcohol consumption, even from sales practices which are not in technical breach of the relevant statutes.

The analysis in this chapter suggests a number of options that the ACCC may wish to consider so as to further enhance the welfare of Aboriginal people in remote communities. We return now to the concept of the frontier economy, defined as the zone of intersection between the Aboriginal and non-Aboriginal domains (see fig. 1). This chapter has attempted to take account of specific economic practices of both Aboriginal businesses (exemplified by Aboriginal community stores) and Aboriginal consumers. In accordance with the research aims of this project, these economic practices inform the 'special characteristics of Aboriginal communities which ... should be taken into account in any ACCC compliance and education strategies'.

Details of possible breaches of the TPA in remote Aboriginal communities are contained in appendix 2. Evaluation of prospective breaches of the TPA requires a culturally informed understanding of why Aboriginal people may continue to participate in relationships that have the potential to be exploitative. Designing appropriate compliance and consumer education strategies requires an understanding of specific Aboriginal economic values and the way these values may inform market transactions (see fig. 4). Sales practices that might be potentially unconscionable in terms of the TPA, for example, might result in part from Aboriginal agency, or suit particular Aboriginal purposes. The case study detailed in relation to this point was that of a pastoral station store. An important question that arises from this analysis is what the role of the ACCC should be in such circumstances. If particular sales practices suit Aboriginal customers, should they be left as they are?

Fig. 4. Designing appropriate compliance and consumer education strategies



Proactive monitoring and intervention

In a recent article on the sale of alcohol using book-up, a journalist noted that 'it's difficult to get people to make complaints because they are complicit in the whole thing' (Martin 2002). Similarly, the small number of publicised investigations of TPA breaches in remote Aboriginal communities is not indicative of the fact that no TPA breaches are occurring (see appendix 2), but rather the fact that such breaches may go unreported. The Chairman of the ACCC, Professor Allan Fels, himself noted at a recent conference that he is aware that Aboriginal people seldom complain to bodies like the ACCC: 'There are reasons for this related to disadvantage, culture and access' (Fels, 2002: 4). Possible reasons include a lack of awareness of the TPA coupled with the difficulty in accessing a phone in remote communities, and low levels of literacy. To some extent these factors must impede on the operation of the TPA in remote Aboriginal Australia.

In the long term the measure of the success of ACCC programs directed to Indigenous Australians may be the number of complaints received from Indigenous people. However, in the short term, if reliance on complaints and feedback from Aboriginal consumers is unlikely to be effective, then this suggests a need for alternative strategies. In particular it suggests that the ACCC should become more proactive in monitoring and intervening in Aboriginal TPA-related issues. Many remote communities operate in a legislative vacuum, away from the purview of the law. In this context it becomes increasingly important for regulatory agencies to develop ways of monitoring the activities of firms and individuals, particularly with respect to consumer rights issues. Ideally this would involve direct field monitoring. While it is recognised that state and territory fair trading agencies generally deal

with localised consumer matters, fieldwork would suggest that these departments are not funded to proactively monitor matters arising in remote communities. In addition, it appears that a number of Aboriginal consumer issues, such as unconscionable used-car and door-to-door sales practices and letter scams, are of concern in a large number of Aboriginal communities. Such systemic problems seem to indicate that a federal approach, or a federally directed approach, is needed. It may therefore be that direct field monitoring is best performed by agents of the ACCC. There are, however, obvious resource implications from such an option.

Strategic linkages

One way of avoiding some of the costs of direct monitoring of TPA breaches in remote Aboriginal communities would be to develop strategic linkages with key Aboriginal agencies. This would allow potential breaches to be reported by these agencies rather than via Aboriginal consumers themselves. While some linkages between ATSIC and the ACCC have already been established, it is important that regional linkages are also explored. Regional Aboriginal agencies are best placed to collect information relating to prospective breaches of the TPA in remote Aboriginal communities. Thus the ACCC may wish to pursue linkages with various ATSIC regions as well as other regional Aboriginal agencies such as Land Councils and Aboriginal legal aid organisations. Consumer education strategies should also be directed towards these agencies.

The ACCC may also wish to consider taking a more proactive coordinating role in the activities of the various state and territory fair trading agencies with respect to issues of concern to Aboriginal people. At present there seems to be a large degree of duplication in Aboriginal-related issues and in the materials being developed by the various agencies. In addition, while many agencies have identified some key issues that impact upon Aboriginal consumers, for example the sale of used cars, they have not developed any strategic programs, beyond limited education of Aboriginal consumers, to avoid such problematic transactions occurring in the future. Further, many of the key Aboriginal consumer protection issues identified in the Appendix to this chapter, such as the sale of used cars and door-to-door sales, are issues that have also been identified by a number of state and territory fair trading agencies. It is clear that these issues extend across state borders, indicating that there may be a role for the ACCC in coordinating a federal response to consumer protection measures in these areas.

Consumer education

Another aspect of the coordinating role that the ACCC may wish to pursue is the development of Aboriginal-specific consumer education material. Much of the material that is currently aimed at Aboriginal people is inaccessible to them, in that

it is written in complex English. None of these materials appear to have been developed in consultation with Aboriginal people or communities. Nor does it appear that any of agencies concerned conduct extensive oral workshops on consumer education in communities.

The key to an understanding of Aboriginal agency is the realisation that it is not only through lack of education that Aboriginal consumers participate in what are perceived by others to be exploitative transactions. The argument made in this chapter would suggest that while general consumer education materials in appropriate formats may have utility, it would be far more effective to provide targeted information to, for example, the committees and boards of community stores, community councils, and other relevant Aboriginal organisations. Peak Aboriginal governing bodies have little or no understanding of how the TPA operates. One way of ameliorating this problem may be to conduct a corporate governance program with these bodies that includes, among other things, a section on the operation of the TPA.

Another group that the ACCC may wish to consider targeting for TPA training are the store managers of community stores. Since most store managers are non-Aboriginal and literate there would probably be no need to develop specific competition and consumer materials. This training could be viewed as important to ensuring compliance with the competition and consumer provisions of the 'store charter' (detailed below). Further, the presence of market-sharing arrangements in community stores also seem to indicate the need for TPA compliance education to be directed at store managers. Materials could be provided to accompany the store charter and the ACCC could take steps to ensure that store managers understood what they were signing on to.

By contrast, the preferred model for the delivery of general TPA competition and consumer education material for Aboriginal groups is orally based communication in the context of workshops, ideally given by an Aboriginal person who travels to the community (Aboriginal Consumer Education Project 1994). Pictorial representations are essential given the high level of Aboriginal illiteracy, and where English is used it should be plain and concise. More generally, the ACCC may also wish to look at employing a radio media outlet (such as Warlpiri Media) to design a consumer education program. Such a program would have the advantage of being a reasonably inexpensive and highly accessible means to raise awareness in remote Aboriginal Australia. Finally, if a telephone line is to be the point of contact for people accessing information from either the ACCC or various state fair trading agencies, as is usually the case, then the number should be a 'freecall' number and staff should be trained to use plain English. The ACCC may also wish to investigate the idea of employing Aboriginal liaison officers to follow up complaints from various communities. This would be in keeping with the idea of proactive monitoring detailed above.

Governance issues

Governance of stores is identified as a major issue for enhancing Aboriginal welfare in remote communities. While not denying the importance of introducing or maintaining a degree of competition, in and of itself competition cannot fully enhance consumer welfare while governance structures remain as they are.

While it is not a ACCC responsibility, the way stores are governed has clear implications for consumer rights and the general welfare of Aboriginal consumers. Key to the governance problems faced by most community stores is a lack of accountability. One possibility for improving accountability is the development of Memoranda of Understanding (MoUs) between the ACCC, the regulatory authorities of the various statutes under which stores are incorporated and possibly ATSIC, to develop systematic education and monitoring processes for store committees. Thus, the ACCC has had an MoU in place with state and territory fair trading agencies and ASIC for some time. A further such alliance has also been pursued in relation to the development of a 'store charter' (discussed below). These alliances may prove useful in both educating other agencies about the work of the ACCC as well as developing mechanisms to better monitor the operation of community stores.

Codes of conduct

Development of a code of conduct by which stores operate may be useful in ensuring that a minimum standard of service and perhaps quality of goods is maintained. Such a code of conduct, termed a 'store charter', has recently been drafted by the ACCC in conjunction with a group consisting of the Banking Industry Ombudsman (Colin Neave), the Northern Territory Anti-Discrimination Commissioner (Tom Stodulka), the Northern Territory Department of Industries and Business CEO (John Carroll) and ATSIC regional staff. Fieldwork investigations seem to indicate that a number of stores do not display prices for goods. Thus it is particularly important that the code requires that prices be included either on goods or on the shelves where goods are stored. This is recognised in the store charter which states that, 'stores will clearly display the price of all items available for sale' (ACCC 2002: 4).

The development of a voluntary code of conduct may be ineffective if not accompanied by both monitoring and the education of store managers in TPA compliance. If after a period of time the voluntary code of conduct is deemed ineffective then a mandatory code may be necessary. The dependence of large sections of the community on the services provided by community stores seems to indicate that the provision of these services should be regulated so as to ensure that minimum standards are maintained. This is particularly the case where community stores exercise a large degree of market power such that entry into a voluntary code of conduct does not provide a competitive advantage in a market.

Some evidence suggests that in a situation of market power customers who do complain about, for example, higher prices, are refused service at the store (Srivastava 1998). In the long run, a mandatory code may be the only means of enabling Aboriginal consumers to exercise their consumer rights. However, even a mandatory code would be ineffective if it were unpoliced. For example, despite the existence of detailed health regulations there is still anecdotal evidence to suggest that some community stores continue to sell stock that is unfit for human consumption. Finally, if a mandatory code is established there must be some way of attempting to ensure that it does not further increase the prices paid by consumers at community stores. Without such an assurance it may be that consumer welfare in remote Aboriginal communities will be further eroded.